

**Nordstrom, Inc. and Retail Store Employees Union
Local 1001, Chartered by United Food and
Commercial Workers International Union,
AFL-CIO, CLC. Case 19-CA-13973**

September 30, 1982

DECISION AND ORDER

BY CHAIRMAN VAN DE WATER AND
MEMBERS FANNING AND ZIMMERMAN

On March 31, 1982, Administrative Law Judge Clifford H. Anderson issued the attached Decision in this proceeding. Thereafter, Respondent filed exceptions and a supporting brief.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the record and the attached Decision in light of the exceptions and brief and has decided to affirm the rulings, findings, and conclusions of the Administrative Law Judge and to adopt his recommended Order.

ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board adopts as its order the recommended Order of the Administrative Law Judge and hereby orders that the Respondent, Nordstrom, Inc., Seattle, Washington, its officers, agents, successors, and assigns, shall take the action set forth in the said recommended Order.

DECISION

STATEMENT OF THE CASE

CLIFFORD H. ANDERSON, Administrative Law Judge: I heard this matter on February 18, 1982, in Seattle, Washington, pursuant to a complaint and notice of hearing issued by the Acting Regional Director for Region 19 of the National Labor Relations Board (Regional Director and Board, respectively) on November 19, 1981, based upon a charge filed by Retail Store Employees Union Local 1001, Chartered by United Food and Commercial Workers International Union, AFL-CIO, CLC (the Union), on October 13, 1981, against Nordstrom, Inc. (Respondent).

The complaint alleges that Respondent violated Section 8(a)(1) of the National Labor Relations Act (herein called the Act) by promulgating and enforcing a rule preventing employees from wearing union buttons. Respondent admits ordering a single employee to remove a union button pursuant to a rule applicable to selling floor employees only, but avers that in the circumstances of this case its conduct is not proscribed by the Act.

All parties were given full opportunity to participate at the hearing, to introduce relevant evidence, to exam-

ine and cross-examine witnesses, to argue orally, and to file post-hearing briefs. Upon the entire record herein, including my observation of the witnesses and their demeanor and the briefs of Respondent and the General Counsel, I make the following:¹

FINDINGS OF FACT

I. JURISDICTION

Respondent is a Washington state corporation with offices and places of business in Seattle, Washington, where it is engaged in the business of operating retail department stores. During the relevant period, Respondent has enjoyed annual gross sales of goods and services of a value in excess of \$500,000. During the same period it has annually purchased and caused to be delivered to its Washington state facilities goods and materials valued in excess of \$50,000 directly or indirectly from sources outside the State. Further, during the same period it has annually sold and shipped goods from its Washington state facilities of a value exceeding \$50,000 to customers outside the State of Washington or to customers inside the State who were themselves engaged in interstate commerce by other than indirect means.

II. THE LABOR ORGANIZATION

The Union is and has been at all relevant times a labor organization within the meaning of Section 2(5) of the Act.

III. THE ALLEGED UNFAIR LABOR PRACTICES

A. Background

Respondent operates various department stores including its downtown Seattle store where it also maintains administrative offices (the facility). The Union for many years has represented certain of Respondent's employees including employees at the facility. The represented employees include selling floor employees, who meet and deal with retail customers, and other employees who do not have occasion to deal directly with the public.

At all relevant times Respondent has maintained written guidelines or rules concerning employee dress.²

¹ There were essentially no disputes of fact. Where not otherwise noted, the following findings are based on admitted pleadings, stipulations, uncontested documents, or the unchallenged testimony of credible witnesses.

² The guidelines contained in an employee handbook state:

Your clothes should be appropriate for the work you do. If you are in a Customer Contact Department, guidelines on dress have been established so that you present a business like appearance. Check with your manager regarding specific departmental recommendations. As we are a fashion store, we encourage our employees to portray our image in dressing with current fashion and in good taste.

Men are required to wear a neatly pressed jacket, slacks, or business suit, dress shirt and a tasteful tie. Men and women should wear undergarments and hose. Shoes should be well shined and in good repair.

If you are working behind the scene in areas like Stock, Delivery, or in some sales support areas, you may dress less formally, but you should look neat and businesslike. Your department manager or the personnel department will be happy to advise you about suitable apparel for your job.

These rules have been applied to prohibit the wearing of political buttons, denim trousers, and anti-Vietnam war insignia by selling floor employees. The rule has not been applied to prohibit either Respondent's "Acesetter" pins, which are issued to employees for superior job performance, nor to United Way buttons, which identify employees who have contributed to a charity campaign supported by Respondent. Respondent's written rules do not mention union insignia. Until the events in question, union buttons or insignia had not been worn by employees and therefore Respondent had no occasion to decide how its rules would apply to them.

In early 1981, the Union determined to create a steward system among employees of represented employees including Respondent. On September 3, 1981, the Union held a seminar for employees who were or wished to become union stewards. The meeting was attended by Stan E. Johnson, a union member and sales floor employee of Respondent at the facility. Instructional materials were distributed to participants along with union steward pins or buttons.³ The Union encouraged its stewards to wear the pins while working but also told them to remove the pins if asked to do so by management.

B. Events Concerning Respondent and the Union Button

On September 4, Stan Johnson wore his steward pin on his suit lapel while working on the sales floor at the facility. Raymond A. Johnson, general manager of Respondent's Washington state stores, testified as to what happened later that day:

The store manager was aware of the wearing of the button, called me and asked me my opinion as to whether or not that ought to be allowed or disallowed. I asked him to describe the button and decided because of its controversial nature or possible controversial nature that it ought not be allowed.

Raymond Johnson further testified that he felt the steward button could (1) cause loss of selling time by inducing questions from customers concerning the meaning of the pin and the function of a union steward and (2) produce undesired reactions among customers who had strong feelings for or against trade unionism.⁴

³ The pins are made of gilt metal with a deep blue coating applied so that the blue forms a uniform background and the uncoated gilt forms the decoration and lettering on the face of the pin. The pins have a top portion consisting of a circle approximately one-quarter inch in radius; i.e., slightly smaller than a dime. This circle portion bears the initials "UFCW" along the upper circumference, the Union's emblem in the center, and the Union's full name in very small print along the lower circumference. The bottom portion of the pin is a horizontal rectangle connected tangentially to the bottom of the circle portion of the pin. This rectangular portion is one-inch wide and one-quarter inch high and bears the word "STEWARD." The subdued blue and gold coloring as well as the small size and lettering of the pin combine to give the pin a muted appearance.

⁴ The record is clear that Stan Johnson was the only employee who wore a union steward button and that he wore it only on September 4, 1981. Counsel for the General Counsel asked Raymond Johnson at the hearing what Respondent's position would have been if an employee who had no contact with customers was observed wearing the union steward pin in issue. Johnson answered:

At or about 5:30 in the afternoon, while working, Stan Johnson received a telephone call from Respondent's personnel director, Randy Carrol. Carrol told Stan Johnson that buttons are not allowed in the store and that he had to take his off immediately. Stan Johnson asked about the Pacesetter button which he was also wearing. Carrol initially told Johnson to remove that button also, but when Johnson reminded her that it was a pin provided by Respondent she said it could stay "but you have to take off the union button right away." Johnson complied and had not worn his steward pin again as of the time of the hearing.

Stan Johnson reported these events to Union Business Representative Diana Tobin, who in turn related the matter to the Union's grievance director, Fred Rosenberry. Rosenberry met with Respondent's personnel manager, Richard Hammond, concerning the button incident on September 14, 1981. Rosenberry asked Hammond the reason why Respondent had refused to allow Johnson to wear his steward button. Hammond answered that it was a management decision. Rosenberry asserted that other buttons and pins were permitted by Respondent. Hammond stated that employees could wear Respondent's Pacesetter pins, that certain other pins might be allowed, but that the union steward pin was prohibited. Rosenberry claimed the prohibition violated the Act and threatened to file a charge against Respondent. Hammond refused to modify his position. The meeting ended and soon thereafter the instant charge was filed.

C. Analysis and Conclusions

1. Arguments of the parties

Counsel for the General Counsel argues that the wearing of union insignia is an activity protected by Section 7 of the Act save in special circumstances which, he argues, are not present in this case. Therefore, Respondent's action in ordering Stan Johnson to remove his pin violates Section 8(a)(1) of the Act. Further, the General Counsel argues that Respondent promulgated and applied its antiunion steward button rule to both selling floor and nonselling floor employees and, therefore, the Act is violated with respect to all employees in the facility generally. Lastly, counsel for the General Counsel argues that, even assuming the rule would be otherwise valid, Respondent has rendered it invalid by a disparate application of the rule to controversial buttons only as opposed to other buttons such as the Pacesetter pin and decorative jewelry.

Respondent argues that its antiunion steward button rule was applied only to selling and not to nonselling floor employees. It admits its action concerning employee Stan Johnson, but argues that this was but a nondiscriminatory application of a longstanding rule that has been consistently applied. Respondent further argues that it is entitled to enforce its rule against union steward buttons because of two legitimate business purposes (1) avoiding controversy among its customers which may affect busi-

I think I'd have to see the circumstances surrounding the wearing. That would be speculative and would be dependent on when its being worn and when its being worn, so—

ness, and (2) protecting the public image of its selling personnel.

2. Case law on union insignia

The Board has long held that, absent "special consideration," the wearing of union buttons or insignia by employees is activity protected under Section 7 of the Act. This protection is afforded to buttons which identify the wearer as a "steward" as well.⁵ Various special considerations which may justify prohibiting employee display of union insignia include situations where employees' safety, the employer's products, or equipment might be threatened, or where harmonious interemployee relations might be jeopardized by wearing the particular button.⁶

The court created an additional "special consideration" in *N.L.R.B. v. Harrah's Club*, 337 F.2d 177 (9th Cir. 1964), when it held that an employer may prohibit the wearing of union insignia in order to maintain a certain type of employee image in the public eye. The Board seems to have accepted this factor as a special consideration in *United Parcel Service, Inc.*, 195 NLRB 441 (1972); see also *Evergreen Nursing Home and Rehabilitation Center, Inc.*, 198 NLRB 775 (1972),⁷ and *Great Western Coca Cola Bottling Company, d/b/a Houston Coca Cola Bottling Company*, 256 NLRB 520 (1981). The Board continues to hold its earlier expressed view that mere employee contact with customers does not, standing alone, justify an employer prohibiting the wearing of union buttons or insignia. *Virginia Electric and Power Company*, 260 NLRB 408 (1982), citing *Floridan Hotel of Tampa, Inc.*, 137 NLRB 1484 (1962), *enfd.* as modified on other grounds 318 F.2d 545 (5th Cir. 1963). Rather, the entire circumstances of a particular situation must be examined to balance the potentially conflicting interests of an employee's right to display union insignia and an employer's right to limit or prohibit such display.

The union insignia cases deal with a myriad of factors only a few of which are present in the instant case. Those considering employee image as a special consideration also address varied factual circumstances. *United Parcel Service, Inc.*, *Harrah's Club*, *Evergreen Nursing Home*, and *Pay 'N Save Corporation* dealt with situations where employees wore uniforms in dealing with the public. The requirement of uniformity of dress and concomitant severe restriction on employee display of other

personal adornment were held to be factors augmenting the employers' arguments that protection of the image of the employees when dealing with the public required that the wearing of certain union buttons be prohibited. The Board and courts in *Floridan Hotel, Inc.*, *supra*, and *Davison-Paxon Company—Division of R. H. Macy & Co.*, 191 NLRB 58 (1971), enforcement denied 462 F.2d 364 (5th Cir. 1972), dealt with an image defense with respect to employees who were not required to be in uniform.⁸ The Board and court agreed in *Floridan Hotel* that a hotel employer could not ban the wearing of employees' dime-size membership and steward buttons in customer areas worn as part of a union campaign to increase union membership among employees in a unit in which the union was certified as representative. The Board and court noted in particular the absence of any evidence of (1) a strike, union animosity, or other friction between employees and (2) the absence of any provocative language on the pins. Both the Board and the court noted that the buttons or pins were small, neat, and inconspicuous. They noted the pins did not detract from the dignity of the hotel and that there was no evidence that the wearing of the pins caused any diminution in the employer's business.⁹

The Board in *Davison-Paxon Company* found that the employer, who operated a high fashion retail store, could not prohibit employees from wearing large union campaign buttons on its sales floor despite a strict dress code and the employer's fear that the buttons would be offensive or controversial to its customers. As noted, *supra*, the court of appeals denied enforcement of the Board's Order in *Davison-Paxon*. In its decision the court noted that smaller more subdued union membership buttons had been worn by employees without complaint from the employer whereas the buttons complained of were union campaign buttons which were larger and more brilliantly colored than the earlier permitted union membership buttons. The court also noted that there had been disruption among employees on the selling floor when the campaign buttons were distributed. Accepting the earlier *Eckerd's* and *Floridan Hotel* decisions, the court found that, considering the totality of circumstances, the balance of conflicting interests favored the employer's interest in protecting its business by prohibiting the wearing of the campaign button against the employees' rights to wear the buttons in public areas.

3. The law applied to the instant facts

The facts of the instant case are essentially undisputed and present relatively pure but conflicting factors to weigh in the balance between employees' right to display insignia and the employer's right to restrict that display. Stan Johnson wore his steward pin in furtherance¹⁰ of

⁵ The protection of steward insignia is also venerable. In *Armour & Company*, 8 NLRB 1100 (1938), the Board majority stated at 1112:

We are of the opinion that [the employees] as a steward in the [union] was entitled to wear the button indicating his rank and function in the labor organization and that the order of the [employer] directing a removal of the button constituted an interference with the rights guaranteed in Section 7 of the Act.

The wearing of a "steward" button as protected activity was affirmed by the Supreme Court in *Republic Aviation Corporation v. N.L.R.B.*, 324 U.S. 793 (1945).

⁶ See, for example, the citation and discussion of cases by the Court of Appeals in *Pay 'N Save Corporation v. N.L.R.B.*, 641 F.2d 697, 700-701 (9th Cir. 1981).

⁷ *Evergreen* was issued before the 1974 amendments to the Act dealing with health care institutions. It does, however, consider the special circumstances of patients in such health care institutions. I find the cases dealing with health care institutions as defined in Sec. 2(14) of the Act require consideration of the legislative history of the Act's amendments which make such cases distinguishable from nonhealth care situations.

⁸ Uniformed personnel as well as those who did not wear uniforms were involved in *Floridan Hotel*.

⁹ The Board reached a similar conclusion in *Eckerd's Market, Inc.*, 183 NLRB 337 (1970). It found an employer's assertion of customer complaints about employees wearing union buttons in the public areas of a retail store to be too vague and insubstantial to constitute a "special circumstance" justifying prohibition of the buttons.

¹⁰ The parties litigated the issue of whether or not stewards must necessarily wear identifying pins on the sales floor in order to adequately

Continued

the Union's efforts to set in place a newly created steward system in bargaining units it represented.¹¹ There is no evidence or contention that, at the time Johnson was asked to remove his pin, a rival union was seeking to represent employees or that there was employee dissension at the facility. Respondent and the Union had enjoyed a longstanding bargaining relationship and had recently entered into a new contract. There was no evidence of conflict or dispute between the Union and Respondent concerning employees at the facility. Thus, the Union's pin would not likely create any disruption among employees, was not displayed in a context of friction or dispute with Respondent, and was part of a campaign to institute a new steward system among represented employees. The pin worn was muted in tone, discrete in size, and free from provocative slogans or mottos. Thus, the pin was as unobtrusive as possible and conveyed no message beyond the mere identification of the wearer as a representative of the Union. This lack of additional factors to be balanced separate the instant case from those cases, noted *supra*, which involved campaign buttons, disruptive slogans or issues, and/or large or brightly colored buttons.

Respondent's application of its written rule concerning selling floor dress standards to the employee's steward button was free from any antiunion motive and did not represent a sudden change in application of the rule. Respondent had consistently enforced its rule against political buttons and protest insignia in the past. I do not find that Respondent's admitted allowance of employees' wearing of charity pins or its own sales Pacesetter award insignia—both of which were a sign of approved or encouraged employee conduct—detract from this finding. Nor do I find that Respondent's ignorant or conscious acquiescence in the wearing of ornamental jewelry such as animal or initial pins—which may have been symbolic of various awards or occupations, such as airline steward or participant in athletic leagues—indicates that Respondent did not consistently attempt to enforce its rules as to political or controversial matters. Respondent did not prohibit all jewelry to be worn. Respondent allowed tasteful jewelry as it seems likely the pins or decorative buttons testified to by the General Counsel's witnesses were regarded as such. Thus, I find that the instant application of Respondent's rule was solely motivated (1) by a desire to maintain an employee image of "dressing with current fashion and in good taste" and—crediting Respondent General Manager Raymond Johnson—(2) a desire to avoid either nonprofitable discussions between customer and employee concerning the pin's meaning, and (3) a desire to avoid producing adverse reaction

among customers who might have strong views concerning union representation of Respondent's selling floor employees. Respondent has therefore proved that its attempt to prohibit the wearing of a union steward button by selling floor employees should be viewed in its most favorable light free from elements of animus, inconsistent application, or other circumstances which in the cited cases were held to weaken the employer's asserted right to ban wearing of union insignia.

Thus, on the facts of this case, I believe the conflicting interests asserted by the parties which must be balanced may be summarized as follows: The General Counsel asserts the right of the employees to wear on the selling floor a small, unobtrusive button identifying the wearer as a steward of a union which represents the selling floor employees when the pins are worn as part of a campaign by the union to institute a system of representation which for the first time included union stewards. Respondent asserts the opposing right of an employer to apply a long-established, consistently applied rule in a context free of antiunion conduct in a manner intended to avoid controversy among its clientele and to preserve a long cultivated image of fashion among its selling floor employees. Thus, the instant case, almost like a law school hypothetical, focuses on the balancing of relatively pure forms of contrasting interests free from the distracting addition of other factors which are present, to a greater or lesser degree, in the earlier "button" cases.

The two notions inherent in Respondent's defense, the need to maintain a uniform public image and the avoidance of controversy, may be separately discussed initially although they are ultimately related. Respondent's expressed desire to avoid controversy among customers on the selling floor which could ultimately reduce sales and/or require additional employee time per sale appears to be no different from any retail enterprise's business interest in ensuring a minimum of distractions to the buying public when in its facility. There was no evidence offered or contention made that Respondent's customers are or would be more opposed to or distracted by steward buttons than members of the public generally or that Respondent has any more reason to avoid potential controversy among customers resulting from employees wearing union steward buttons than any other retailer in the area.¹² Thus, Respondent's argument in this aspect of its case is no different from that which could be made by any retail enterprise which does not desire that its customers be exposed to union insignia. This "controversy" argument is, in my view, precisely the argument rejected by the Board and court in *Floridan Hotel* and its progeny when they held that customer exposure to union insignia, standing alone, is not a "special consideration"

serve the employees in the bargaining unit or whether the Union had sufficient alternative means available to it to avoid any need for the buttons being worn on the sales floor. I do not find the question material to this case and make no findings with respect thereto. I find only that Johnson was in fact a steward for the Union, the Union represented unit employees, and the steward pin was worn in furtherance of the Union's desire to better represent employees.

¹¹ The United States Court of Appeals for the Ninth Circuit has repeatedly noted the distinction between buttons worn in furtherance of collective-bargaining and other purposes not protected by the Act. See, e.g., *N.L.R.B. v. Harrah's Club*, *supra*; and *N.L.R.B. v. John Rooney, et al. d/b/a Rooney's at the Mart*, *supra*.

¹² The absence of complaints about the button is irrelevant. Respondent need not await customer complaint before it takes legitimate action to protect its business. Respondent was aware that in the past it had received comments from its customers both for and against the fact that its employees were represented. I find that Respondent was aware of such mixed public sentiments when it prohibited the wearing of the steward button on the selling floor. I find, further, however that such potential views of the public are essentially identical to those faced by any retailer in the same geographical area whose custom derives from the public generally.

which allows an employer to prohibit display of such insignia by employees. Respondent's fears regarding the creation of controversy on the part of the buying public therefore are not sufficient to justify a ban on employees wearing steward buttons on the selling floor in the instant case.

The second element in Respondent's defense is that its need to preserve the public high fashion image of its selling floor employees is a special consideration justifying banning the instant steward button. Two independent factors fatally weaken Respondent's argument here. First, unlike the cases in which employers required employees to wear a uniform and/or banned the wearing of any jewelry or personal adornment, Respondent allows varied—albeit tasteful and fashionable—dress and personal jewelry to be worn by its selling floor employees. Respondent cannot argue that no items may be worn, but rather must argue that the union steward button is unfashionable. I find that the instant button is not unfashionable; i.e., had the instant steward button been a decorative pin of similar size and coloration without any message or connotation of union affiliation, Respondent would not have objected to its wearing. This finding is consistent with prior cases. In all the cases finding particular union buttons inconsistent with a uniform public image, the buttons involved were notably larger and more garish or brightly colored than the instant pin. Indeed, in the *United Parcel* and *Davison-Paxon* cases the employers allowed the wearing of union buttons similar to the instant steward button and objected only to large more brightly colored union campaign buttons. The court in *Davison-Paxon* particularly noted this size and color distinction and specifically noted its approval of the *Floridan Hotel* decision which had approved of the wearing of a small, discrete union button in customer areas by employees.

While treated separately, *supra*, the image and controversy questions are each in part a function of the steward button's conspicuousness. The controlling fact of this case is that the button at issue is small, tasteful, and inconspicuous. The lack of an intrusive insignia on an employee wearer is likely to reduce controversy among the clientele and to avoid debasement of the fashionable image of the selling floor employees when compared to the larger buttons in the cited cases. Those cases allow employers to prohibit pins which *unreasonably* jeopardize their operations. The instant steward pin is not of a size and intrusiveness which *unreasonably* interferes with Respondent's operations, when balanced against the recognized right to wear union insignia in the absence of special considerations. Thus, I find the competing interests herein on balance favor the employee's right to display the button in issue. Accordingly, based on the record as a whole, I find that the wearing of the union steward button at issue, under all the circumstances, was protected activity. Respondent therefore violated Section 8(a)(1) of the Act by prohibiting employees from wearing the pin on its sales floor at the facility on September 4, 1981.

4. The branch of the application of the rule

Separate from the specific September 4 events involving Stan Johnson, the General Counsel alleged that Re-

spondent on that same date "verbally promulgated, announced, enforced and maintained a rule prohibiting employees from wearing any buttons, insignia or badges," both as to selling floor and nonselling floor employees at its facility. Respondent in its answer, as orally amended at the hearing without objection from the General Counsel, admitted the allegation as to selling floor employees and denied it as to nonselling floor employees.

As noted, *supra*, Respondent's written rules do not specifically address union insignia. Stan Johnson was told to remove his button but was not told by Respondent's agents anything other than that Respondent's rule required that he remove the button. There is no contention that any employee other than Johnson ever wore a union button of any kind. Union Agent Rosenberry discussed the September 4 events with Respondent Personnel Manager Hammond on September 14; Hammond told him that management's decision with respect to Johnson was firm. There is no evidence that Hammond or any other agent of Respondent announced a general rule regarding union buttons or did other than assert that management's instructions to Union Steward Johnson would stand. Thus, save for Respondent's admission in its amended answer as to selling floor employees, there is no evidence that any agent of Respondent ever made any statement of any kind regarding union buttons arguably applicable to nonselling employees.

The General Counsel asserts, in support of its allegation as to nonselling floor employees, the testimony of Respondent General Manager Johnson. He testified that if a "controversial" pin were worn by a nonselling floor employee he or she would "probably be asked to remove it." Johnson then was asked by the General Counsel what he would do if a union representative nonselling floor employee wore the steward button at issue herein. Johnson answered that his decision would be dependent on surrounding circumstances, on where and when it was worn. Presumably the General Counsel would argue that a nonselling floor employee has a right to wear a union steward button under all circumstances and therefore Respondent has announced an intention to violate the Act *in futuro* with respect to nonselling floor employees.

I find that there is no evidence on which to base a finding that Respondent ever promulgated, announced, enforced, or maintained a rule of any kind regarding the wearing of union buttons by nonselling floor employees. Nothing was said to employee Stan Johnson concerning nonselling floor employees. Respondent's discussions with Rosenberry dealt with employee Johnson's specific circumstances and cannot reasonably be construed to apply more generally. No enforcement of any rule applying to nonselling floor employees occurred. The testimony of Respondent's general manager about his possible future actions if a nonselling floor employee was found wearing a union steward button must be regarded as at best a theoretical issue. As the Board has noted in another context in *Meat Cutter Union Local 81, Amalgamated Meat Cutters and Butcher Workmen of North America, AFL-CIO (Empire Enterprises, d/b/a Tri-City Meats)*, 241 NLRB 821, 822 (1979):

The Board does not decide cases "in pure theoretical terms" and, in the circumstances of this case, we are constrained to conclude, without passing on the rationale advanced by the General Counsel or the Administrative Law Judge, that the case is not ripe for decision and that there is no justifiable issue between the parties involved which may be resolved in a Board proceeding.

The General Counsel's allegation with respect to nonselling floor employees therefore is dismissed. Inasmuch as Respondent's answer admits the existence and enforcement of the rule as to selling floor employees and as I have found the rule as applied in that context to be improper, I find Respondent's rule as applied to the selling floor employees violated Section 8(a)(1) of the Act.

IV. THE REMEDY

Having found Respondent has engaged in certain unfair labor practices, I shall order that it cease and desist therefrom and take certain affirmative actions designed to effectuate the policies of the Act. Since I have noted that not all union insignia are automatically privileged on selling floors, I shall order Respondent to permit wearing of the union steward button and I shall prohibit any unreasonable restriction of types of buttons or insignia that may be worn. *N.L.R.B. v. John Rooney et al. d/b/a Rooney's at the Mart*, 677 F.2d 42 (9th Cir. 1982), modifying remedy in relevant part 247 NLRB 1004 (1980).

CONCLUSIONS OF LAW

1. Respondent is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act.
2. The Union is a labor organization within the meaning of Section 2(5) of the Act.
3. By verbally promulgating, announcing, enforcing, and maintaining a rule prohibiting selling floor employees from wearing union buttons at its downtown Seattle, Washington, facility and by telling employee Stan Johnson to remove his union steward button, Respondent has violated Section 8(a)(1) of the Act.
4. The aforesaid unfair labor practices are unfair labor practices affecting commerce within the meaning of Section 2(6) and (7) of the Act.
5. Respondent has not otherwise violated the Act.

Upon the foregoing findings of fact, conclusions of law, and the entire record in the case, and pursuant to Section 10(c) of the Act, I hereby issue the following recommended:

ORDER¹³

The Respondent, Nordstrom, Inc., Seattle, Washington, its trustees, officers, agents, successors, and assigns, shall:

¹³ In the event no exceptions are filed as provided by Sec. 102.46 of the Rules and Regulations of the National Labor Relations Board, the findings, conclusions, and recommended Order herein shall, as provided in Sec. 102.48 of the Rules and Regulations, be adopted by the Board and become its findings, conclusions, and Order, and all objections thereto shall be deemed waived for all purposes.

1. Cease and desist from:

(a) Verbally promulgating, announcing, enforcing, and maintaining a rule prohibiting selling floor employees from wearing union steward buttons at its downtown Seattle, Washington, facility.

(b) Ordering selling floor employee Stan Johnson or any other selling floor employee to remove his or her button identifying the wearer as a steward for Retail Store Employees Union Local 1001, Chartered by United Food and Commercial Workers International Union, AFL-CIO, CLC.

(c) Unreasonably restricting the types of union buttons or insignia that may be worn by selling floor employees at its downtown Seattle, Washington, facility.

(d) In like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed in Section 7 of the Act.

2. Take the following affirmative action designed to effectuate the policies of the Act:

(a) Post at its downtown Seattle, Washington, facility copies of the attached notice marked "Appendix."¹⁴ Copies of said notice, on forms provided by the Regional Director for Region 19, after being duly signed by Respondent's authorized representative, shall be posted by it immediately upon receipt thereof, and be maintained by it for 60 consecutive days thereafter, in conspicuous places, including all places where notices to employees are customarily posted. Reasonable steps shall be taken by it to ensure that said notices are not altered, defaced, or covered by any other material.

(b) Notify the Regional Director for Region 19, in writing, within 20 days from the date of this Order, what steps it has taken to comply herewith.

¹⁴ In the event that this Order is enforced by a Judgment of a United States Court of Appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

APPENDIX

NOTICE TO EMPLOYEES POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD An Agency of the United States Government

After a hearing in which all parties were accorded an opportunity to call witnesses and to introduce relevant evidence, the National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post this notice and obey its terms.

The Act gives all employees these rights:

- To act together for collective bargaining or mutual aid or protection
- To engage in self-organization
- To form, join, or help unions
- To bargain collectively through representatives of their own choosing
- To refrain from any or all of these things.

WE WILL NOT verbally promulgate, announce, enforce, and maintain a rule prohibiting selling floor employees from wearing any union steward buttons at our downtown Seattle, Washington, facility.

WE WILL NOT order selling floor employees Stan Johnson or any other selling floor employee to remove his or her union button identifying the wearer as a steward for Retail Store Employees Union Local 1001, Chartered by United Food and

Commercial Workers International Union, AFL-CIO, CLC.

WE WILL NOT unreasonably restrict the types of union buttons or insignia which may be worn by our selling floor employees.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce our employees in the exercise of the rights guaranteed them in Section 7 of the Act.

NORDSTORM, INC.